

Message Text

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ACTION DLOS-07

INFO OCT-01 AF-10 ARA-16 EA-11 EUR-25 NEA-14 RSC-01 IO-14

ISO-00 CG-00 CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03

NSAE-00 NSC-07 PA-04 PRS-01 SP-03 SS-20 USIA-15

AID-20 CEQ-02 COA-02 COME-00 EB-11 EPA-04 NSF-04

SCI-06 FEA-02 ACDA-19 AEC-11 AGR-20 DOTE-00 CIEP-03

FMC-04 INT-08 CEA-02 JUSE-00 OMB-01 OIC-04 DRC-01

/297 W

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R 022005Z AUG 74

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 5127

INFO USMISSION USUN NEW YORK

UNCLAS CARACAS 7373

E.O. 11652: N/A

AGS: PLOS

SUBJECT: LOS: COMMITTEE I, DEBATE ON ARTICLE 9

FROM US DEL LOS

1. FOLLOWING DECISION OF INFORMAL COMMITTEE I (C-I) TO FOCUS DISCUSSION ON EXPLOITATION SYSTEM (ART 9) WITH POSSIBILITY FOR DELS TO MAKE MATERIAL AND RELEVANT REFERENCES TO ISSUES OF CONDITIONS FOR EXPLOITATION (RULES AND REGULATIONS) AND ECONOMIC ASPECTS OF EXPLOITATION, C-I HELD SEVERAL MEETINGS LARGELY DEVOTED TO ANALYSIS OF GROUP OF 77 PROPOSED ALTERNATIVE TO ART 9.

QTE ALL ACTIVITIES OF EXPLORATION OF THE AREA AND OF THE EXPLOITATION OF ITS RESOURCES AND ALL OTHER RELATED ACTIVITIES INCLUDING THOSE OF SCIENTIFIC RESEARCH SHALL BE CONDUCTED
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DIRECTLY BY THE AUTHORITY.

QTE THE AUTHORITY MAY, IF IT CONSIDERS IT APPROPRIATE, AND WITHIN THE LIMITS IT MAY DETERMINE, CONFER CERTAIN TASKS TO JURIDICAL OR NATURAL PERSONS, THROUGH SERVICE CONTRACTS, OR ASSOCIATION OR THROUGH ANY OTHER SUCH MEANS IT MAY DETERMINE WHICH ENSURE ITS DIRECT AND EFFECTIVE CONTROL AT ALL TIMES OVER SUCH ACTIVITIES. UNQTE.

2. GENERAL TENOR OF DEBATE ON ART 9 WAS NON-POLEMICAL QUESTIONING BY VARIOUS DELS OF MEANING OF DIFFERENT ALTERNATIVE TEXTS BEFORE C-I, WITH MAJORITY OF QUESTIONS BEING DIRECTED TO SPONSORS OF GROUP OF 77 TEXT. IN PARTICULAR, LDC'S WERE ASKED HOW AUTHORITY WOULD FINANCE SERVICE CONTRACTS, WHETHER SERVICE CONTRACTS WOULD BE FOR INDIVIDUAL PHASES OF EXPLOITATION AND IF SO, HOW WOULD AUTHORITY INTEGRATE THESE PHASES, AN WHAT WAS PRECISE NATURE OF CONTROL BY AUTHORITY ENVISIONED IN 77 TEXT?

3. QUESTIONS RECEIVED SINGLE RESPONSE FROM GROUP OF 77 C-I CHAIRMAN, COLOMBIAN REP, WHO STRESSED FLEXIBILITY GRANTED AUTHORITY IN 77 TEXT TO SELECT WHATEVER CONTRACTUAL ARRANGEMENT SEEMED APPROPRIATE AND RECOGNITION THAT AUTHORITY WOULD HAVE TO GRANT PRIVATE ENTITIES ADEQUATE GURANTEES OF SECURITY OF INVESTMENT AND TENURE. MOREOVER, COLOMBIAN REP STATED THAT SERVICE CONTRACTS WOULD BE FINANCED FROM PROCEEDS OF OPERATION, EITHER THROUGH PRODUCTION - OR PROFIT SHARING, AND THUS IMPLIED THAT INDIVIDUAL SERVICE WOULD BE FOR FULLY INTEGRATED EXPLOITATION IN ORDER TO INCLUDE RENUMERATIVE PHASE OF OPERATION. IN RESPONSE TO CHARGE THAT 77 TEXT IGNORED POSSIBILITY OF STATE OWNED ENTERPRISES DOING BUSINESS WITH AUTHORITY, HE STATED THAT IDEOLOGICAL BACKGROUND OF ENTITIES WOULD BE TAKEN INTO ACCOUNT. (IN LATER INTERVENTION PERUVIAN REP CLARIFIED THAT QTE JURIDICAL PERSONS UNQTE INCLUDED STATES)

4. DURING EARLY STAGES OF DEBATE UK REP MADE LONG INTERVENTION STRESSING THAT FORM OF CONTRACTUAL RELATIONSHIP BETWEEN AUTHORITY AND ENTITY WAS NOT AS IMPORTANT AS TERMS AND CONDITIONS OF CONTRACT. HE EMPHASIZED UK VIEW THAT BASIC CONDITIONS FOR EXPLOITATION MUST BE INCLUDED IN CONVENTION AND NOT LEFT TO AUTHORITY'S LATER DECISION.

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5. US C-I REP (RATINER) INTRODUCED FOLLOWING NEW ALTERNATIVE FOR ART 9:

QTE 1. ALL ACTIVITIES OF EXPLORATION AND EXPLOITATION IN THE AREA SHALL BE CONDUCTED IN ACCORDANCE WITH LEGAL ARRANGEMENTS WITH THE AUTHORITY PURSUANT TO THIS CONVENTION, REGULATIONS INCLUDED IN THIS CONVENTION AND THOSE PROMULGATED BY THE AUTHORITY PURSUANT TO THIS CONVENTION.

2. THE AUTHORITY SHALL ENTER INTO LEGAL ARRANGEMENTS FOR EXPLORATION AND EXPLOITATION WITH CONTRACTING PARTIES, GROUPS OF CONTRACTING PARTIES AND NATURAL OR JURIDICAL PERSONS SPONSORED BY SUCH PARTIES, WITHOUT DISCRIMINATION. SUCH PARTIES OR PERSONS SHALL COMPLY WITH THIS CONVENTION, REGULATIONS INCLUDED IN THIS CONVENTION AND THOSE PROMULGATED BY THE AUTHORITY PURSUANT TO THIS CONVENTION. UNQTE.

IN EXPLANATION OF TEXT, HE STATED THAT GROUP OF 77 PROPOSAL HAD BROUGHT C-I TO BRINK OF NEGOTIATION BUT CRITICIZED TEXT FOR PLACING KUVO MUCH EMPHASIS ON TYPE OF CONTRACTUAL ARRANGEMENT, I.E. SERVICE CONTRACTS OR CONTRACTS OF ASSOCIATION. HE EXPLAINED US VIEW THAT USE OF NEUTRAL TERMS LIKE QTE LEGAL ARRANGEMENTS UNQTE WOULD ENABLE C-I TO GET OVER BARRIER OF APPRENT DEFINITION OF TERMS AND CONCENTRATE ON QUESTION OF TRUE NATURE OF LEGAL RELATIONSHIP. IN THIS CONNECTION HE NOTED THAT CRUX OF 77 PROPOSAL SEEMED TO BE ISSUE OF AUTHORITY'S CONTROL AND SUGGESTED THAT EMPHASIS ON CONTROL, AND NOT FORMAT OF CONTROL, COULD ENABLE C-I TO MOVE AHEAD.

6. USDEL IS IMPRESSED WITH NEW MOOD OF SERIOUS PURPOSE IN C-I AND ANTICIPATES GENUINE WILLINGNESS TO BEGIN NEGOTIATIONS ON ART 9 IN FOLLOWING WEEKS. PRIVATE CONVERSATIONS WITH KEY LDC LEADES HAVE VERIFIED THIS IMPRESSION AN WE DETECT CERTAIN RECEPTIVENESS ON PART OF AFRICAN AND ASIAN DELS TO DISCUSSIN OF GENERAL TERMS AND CONDITIONS FOR EXPLOITATION IN CONTEXT OF ART 9 NEGOTIATIONS.
STEVENSON

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, INTERNATIONAL LAW, COMMITTEE MEETINGS, OCEAN EXPLORATION, EXPLOITATION (NATURAL RESOURCES), PROPOSALS (BID)
Control Number: n/a
Copy: SINGLE
Draft Date: 02 AUG 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974CARACA07373
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740211-1112
From: CARACAS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740880/aaaacqkx.tel
Line Count: 144
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DLOS
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: izenbei0
Review Comment: n/a
Review Content Flags:
Review Date: 24 JUN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <24 JUN 2002 by reddocgw>; APPROVED <21 JAN 2003 by izenbei0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LOS: COMMITTEE I, DEBATE ON ARTICLE 9 FROM US DEL LOS
TAGS: PLOS, PBOR, VE, CARACAS
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005